REMARKS

Claims 1-92 are all the claims pending in the application.

I.   Procedural Matters - Improper Claim Rejections

The Examiner has rejected claims 32 and 37 under Mayle and Haeberli (see below). However, claims 32 and 37 depend on claims 29 and 27, respectively. Claim 29 was rejected under the combination of Mayle, Haeberli, Acosta and Kuno and claim 27 was rejected under the combination of Mayle, Haeberli and Kuno. Accordingly, the rejection of claims 32 and 37 is improper.

Similarly, claims 33 and 34 were rejected under the combination of Mayle, Haeberli and Kuno but depend on claim 29, which was rejected under the combination of Mayle, Haeberli, Acosta and Kuno. Accordingly the rejection of claims 33 and 34 is also improper.

Applicant requests that the Examiner withdraw the rejections on these claims. Applicant submits that any new rejection must be provided on a non-final basis.

II.   Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected claims 1-14, 16, 20-21, 24-25, 32, 37-38, 40, 43-51, 53-55, 57, 60-61, 64-65, 67, 72, 74, 76 and 78-92 under 35 U.S.C. § 103(a) as being unpatentable over Mayle et al. (US 6,018,774 ["Mayle"], in view of Haeberli (US 6,587,596) ["Haeberli"]. For at least the following reasons, Applicant traverses the rejection.

Claim 1 recites an image distributing system that comprises "a character information obtaining unit for capturing a first image of the target character and obtaining character information of the target character." As best understood, based on the cited sections, the

Examiner is contending that the user computer corresponds to the claimed character information

obtaining unit (Office Action at page 3 citing col. 7, lines 17-19) and personal information, such

as photo caption 604 and message 605, corresponds to the claimed character information (Office

Action at pages 3-4 citing col. 8, lines 1-11).

The Examiner does not provide any information with respect to the claimed target

character, but, in the rejection of claims 85 and 86, the Examiner contends that the people in

Figs. 4 and 11 allegedly correspond to the claimed target character as set forth in claims 85 and

86. Accordingly, in order to be consistent in the analysis, the claimed target character must

allegedly correspond to subject matter in the user-selected photo 603 of postcard 600.

The Examiner also contends that, because multiple images are stored in Temp Image

Database 65, the claimed first and second images are an integral part of the invention in Mayle.

Office Action at page 4. In essence, the Examiner appears to contending that the claimed second

image is inherent. However, the Examiner is ignoring the fact that the claimed second image

must have at least the target character that has been captured in the claimed first image. The

mere fact that multiple images may be stored does not necessarily mean that a second image that

has the target character of the first image was captured by the camera system of Mayle.

To establish inherency, the extrinsic must make clear that the missing material is

necessarily present in the reference. MPEP at 2100-54. Here, there is no disclosure in Mayle

that Database 65 has a second image, which includes the subject matter of photo 603.

For Mayle to meet the claimed features as set forth in claim 1, digital camera 15 and

video camera 14, which allegedly correspond to the claimed camera system, must capture a

second image that includes the subject matter (the alleged target character) of the first image, and then the second image must be received and stored by Database 65, which allegedly corresponds to the claimed image database.

To the extent Mayle may disclose that images are received and stored by the Database 65 of server 31, it is for photo 603, which allegedly is the claimed first image (see Fig. 10, col. 10, lines 36-39). There is no disclosure or suggestion that the camera system captures "a plurality of images including a second image having at least the target character" as set forth in claim 1. (emphasis added).

Further, claim 1 also comprises "an image collecting unit for automatically selecting said second image data among said plurality of said image data stored in said image database by identifying the target character according to character information thus obtained for distributing the second image including the target character." The Examiner cites a section of Mayle that discloses the regeneration of some of the graphics used in the postcard. The Examiner contends that "Mayle suggests for example selected images or portions of images based on the changed data or characteristics of data are distributed as detailed in fig 4." Office Action at page 4.

The Examiner's cited section merely discloses that graphics are regenerated and transmitted by the server as the user customizes the postcard (see col. 6, lines 19-44). Although one part of the customization of the postcard may involve selecting photo 603, the actual selection of photo 603 is based on user preference, not on any character information, i.e. photo caption 604 or message 605. In addition, photo 603 is allegedly the claimed first image.

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Accordingly, the selection of photo 603 cannot be used to also allegedly disclose the claimed selection of the second image.

To the extent the Examiner may be referring to the selection of other graphical elements as the claimed second image, Applicant submits that these graphical elements would not have the subject matter of photo 603 (alleged target character) or be selected based on photo caption 604 or message 605.

In fact, Mayle discloses that photo caption 604 and message 605 are edited during the customization of the postcard 600, which can (and probably does) occur after the user selection of photo 603 (see col. 7, line 65 to col. 8, line 12). Accordingly, Mayle does not disclose or suggest selecting a second image (assuming a second image even exists) by "identifying the target character according to character information" as set forth in claim 1 since the photo caption 604 and message 605 play no part in the actual selection of the photo 603.

Claim 1 also recites that the second image data is automatically selected. The Examiner concedes that Mayle does not disclose the automatic selection of the second image data but applies Haeberli to allegedly cure the deficiency. Specifically, the Examiner contends that the claimed automatically selecting said second image data among said plurality of said image data is disclosed by process 700 (or 900, Figs. 9 and 10) of Haeberli, which relates to the automatic selection of images based on image attributes. The Examiner contends that one skilled in the art would have incorporated the teachings of Haeberli with Mayle because it brings "the advantages of generating and displaying not only preview image of image-based products but also allows

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user to see how the image based product will look with a particular set of product attributes."

Office Action at page 21.

According to the system disclosed in Haeberli, one or more attributes are identified in the retrieved images, then, multiple images are selected from the received images based on image attributes to form a diptych.

Specifically, one or more required images are automatically <u>selected among a plurality of images based on image attributes that an individual image may have</u>.

<u>In contrast</u>, according to an image distributing system as set forth in claim 1, image data are automatically selected among a plurality of images based on character information of "a target character."

Specifically, in a non-limiting embodiment, one or more required images, which include the target character, are automatically <u>selected among a plurality of images captured by one or more cameras based on character information of "a target character" obtained by one camera (a character information obtaining unit)</u>. Accordingly, Applicant submits that the claimed automatic selection is different from that found in the system of Haeberli. Therefore, Mayle in view of Haeberli does not disclose or suggest all the elements as set forth in claim 1.

In addition, Haeberli discloses that process 700 (900) includes receiving images that are uploaded from a client computer or an image database for editing (col. 12, lines 15-26, Figs. 7, 8a, 10, elements 702, 802, 1002). Haeberli also discloses that one or more attributes are identified in the retrieved images (col. 12, lines 20-21, Figs. 7 and 10, elements 704, 1004).

Then, multiple images (Figs. 7, 8b, 10, elements 706, 806, 1006) may be selected from the

received images (Fig. 8a, element 802) to form a dyptych (col. 13, lines 5-8, Fig. 8b, 806).

The Examiner contends that Mayle can be modified so that the initial selection of images

from Database 65 for editing is automated based on attributes as taught by Haeberli. However,

Applicant submits that the only feature in Haeberli that is comparable to the image selection

from Database 65 of Mayle is the initial selection from a database of the received images (i.e.,

702, 802, 1002), not the subsequent selection from the received images. Since there is no

disclosure that the initial selection of received images (702, 802, 1002) is automated, the

Examiner's reliance Haeberli is misplaced. Accordingly, Applicant submits that there is no

motivation for one skilled in the art to incorporate the teachings of Haeberli to automatically

select images from Database 65 of Mayle as contended by the Examiner.

Further, Applicant submits that Mayle already contemplates the previewing of images

and the customization of the postcard before it is sent by the user (see at least col. 6, lines 19-44,

col. 7, line 55 to col. 8, lines 30, "The card is always displayed with all the latest information in

the correct locations."). Accordingly, the Examiner proffered reason for modifying the system in

Mayle based on the teachings of Haeberli is not supported.

Because claims 43 and 78 recite similar features, Applicants submit that these claims are

patentable for at least reasons similar to those recited above with respect to claim 1.

Applicant submits that the remaining claims are patentable at least by virtue of their

respective dependencies.

The Examiner has rejected claims 18, 19, 58 and 59 under 35 U.S.C. § 103(a) as being unpatentable over Mayle in view of Haeberli and Acosta *et al.* (US 6,166,729) ["Acosta"]. For at least the following reason, Applicant traverses the rejection.

Because Acosta does not cure the deficient teachings of Mayle and Haeberli with respect to claims 1 and 43, Applicant submits that claims 18, 19, 58 and 59 are patentable at least by virtue of their respective dependencies.

The Examiner has rejected claims 15, 17, 22, 23, 26-28, 33, 34, 36, 39, 41, 52, 56, 62, 63, 66, 68, 69, 71, 73 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Mayle in view of Haeberli and Kuno (US 6,567,121) ["Kuno"]. For at least the following reason, Applicant traverses the rejection.

Because Kuno does not cure the deficient teachings of Mayle and Haeberli with respect to claims 1 and 43, Applicant submits that these claims are patentable at least by virtue of their respective dependencies.

The Examiner has rejected claims 29-31, 35, 42, 70 and 77 under 35 U.S.C. § 103(a) as being unpatentable over Mayle in view of Haeberli, Acosta and Kuno. For at least the following reason, Applicant traverses the rejection.

Because the combination of Acosta and Kuno does not cure the deficient teachings of Mayle and Haeberli with respect to claims 1 and 43, Applicant submits that these claims are patentable at least by virtue of their respective dependencies.

III.   Conclusion

In view of the above, reconsideration and allowance of this application are now believed

to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue

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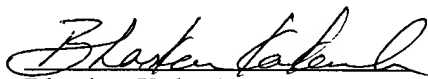
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